

**CHAPTER 3315**  
**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT**  
**UNEMPLOYMENT INSURANCE EMPLOYER TAXES**

**EMPLOYMENT**

3315.0501 DEFINITIONS.

3315.0555 DETERMINING WORKER STATUS.

**RECORDS AND REPORTS**

3315.1001 SCOPE.

3315.1010 RECORDS.

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## EMPLOYMENT

### **3315.0501 DEFINITIONS.**

Subpart 1. **Scope.** For the purpose of parts 3315.0501 to 3315.0555 the following terms have the meaning given to them.

Subp. 2. **Control.** "Control" is the power to instruct, direct, or regulate the activities of an individual whether or not the power is exercised.

Subp. 3. [Repealed, L 2004 c 206 s 53]

Subp. 4. [Repealed, L 2004 c 206 s 53]

Subp. 5. [Repealed, L 2004 c 206 s 53]

**Statutory Authority:** *MS s 268.021*

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**3315.0530** Subpart 1. [Repealed, L 2004 c 206 s 53]

Subp. 2. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 3. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 4. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 5. [Repealed, L 2007 c 128 art 4 s 6]

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**3315.0545** [Repealed, L 2004 c 206 s 53]

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**3315.0550** [Repealed, L 2007 c 128 art 4 s 6]

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**3315.0555 DETERMINING WORKER STATUS.**

Subpart 1. **Factors.** When determining whether an individual is an employee or an independent contractor, five factors must be considered and weighed within a particular set of circumstances. The five factors to be considered are:

- A. the right or the lack of the right to control the means and manner of performance;
- B. the right to discharge the worker without incurring liability for damages;
- C. the mode of payment;
- D. furnishing of materials and tools; and
- E. control over the premises where the services are performed.

The two most important factors are items A and B.

Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E. The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation.

Subp. 2. [Repealed, L 2012 c 201 art 3 s 16]

Subp. 3. [Repealed, L 2012 c 201 art 3 s 16]

Subp. 4. [Repealed, L 2012 c 201 art 3 s 16]

Subp. 5. [Repealed, L 2004 c 206 s 53]

**Statutory Authority:** *MS s 14.386; 14.388; 116J.035; 268.021; 268.105*

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Subp. 3. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 4. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 5. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 6. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 7. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 8. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 9. [Repealed, L 2005 c 112 art 2 s 42]

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**3315.0915** [Repealed, L 2004 c 206 s 53]

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**3315.1000** Subpart 1. [Renumbered 3315.0555, subpart 3]

- Subp. 2. [Renumbered 3315.0555, subpart 3, item A]
- Subp. 3. [Renumbered 3315.0555, subpart 3, item B]
- Subp. 4. [Renumbered 3315.0555, subpart 3, item C]
- Subp. 5. [Renumbered 3315.0555, subpart 3, item D]
- Subp. 6. [Renumbered 3315.0555, subpart 3, item E]
- Subp. 7. [Renumbered 3315.0555, subpart 3, item F]
- Subp. 8. [Renumbered 3315.0555, subpart 3, item G]
- Subp. 9. [Renumbered 3315.0555, subpart 3, item H]
- Subp. 10. [Renumbered 3315.0555, subpart 3, item I]
- Subp. 11. [Renumbered 3315.0555, subpart 3, item J]
- Subp. 12. [Renumbered 3315.0555, subpart 3, item K]
- Subp. 13. [Renumbered 3315.0555, subpart 3, item L]
- Subp. 14. [Renumbered 3315.0555, subpart 3, item M]

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### RECORDS AND REPORTS

#### 3315.1001 SCOPE.

Parts 3315.1001 and 3315.1010 clarify an employer's duty with regard to records as required under Minnesota Statutes, section 268.186.

**Statutory Authority:** *MS s 14.386; 14.388; 116J.035; 268.021; 268.105*

**History:** *13 SR 1057; 31 SR 285; 33 SR 999; 39 SR 151*

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**3315.1005** Subpart 1. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 2. [Repealed, L 2004 c 206 s 53]

Subp. 3. [Repealed, L 2007 c 128 art 4 s 6]

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#### 3315.1010 RECORDS.

Subpart 1. **Record keeping.** Each employer must establish, maintain, and preserve records with respect to individuals performing services for it. The records must be preserved for a period of not less than four years in addition to the current calendar year. The records must show for each individual the following:

- A. name;
- B. Social Security number;
- C. days and the number of hours each day in which the individual performed services;

- D. location where services were performed;
- E. wages paid and wages due but not paid for services;
- F. rate of pay;
- G. amounts paid as allowances or reimbursement for travel or other activity which were not included as wages. The records must show each item of expense incurred during each pay period or calendar month; and
- H. the complete resident address.

Subp. 2. **Instate and outstate.** For services performed both in Minnesota and outside Minnesota the records required by subpart 1 must include:

- A. the state in which the employer maintains a base of operations used by the individual;
- B. the state from which the services are directed and controlled; and
- C. a list of the states in which the individual performs services, other than temporary or incidental services, and the dates services were performed in each state.

Subp. 3. **Covered and noncovered employment.** For services performed in both covered employment and noncovered employment within a pay period the records required by subpart 1 must include the hours spent performing services in covered employment and the hours spent performing noncovered employment.

**Statutory Authority:** *MS s 14.386; 14.388; 116J.035; 268.021; 268.105*

**History:** *13 SR 1057; 31 SR 285; 33 SR 999; L 2014 c 251 art 2 s 24; 39 SR 151*

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**3315.1015** Subpart 1. [Repealed, L 2004 c 206 s 53]

Subp. 2. [Repealed, L 2004 c 206 s 53]

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Subp. 4. [Repealed, L 2003 1Sp3 art 2 s 21]

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**3315.1100** Subpart 1. [Repealed, 13 SR 1057]

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Subp. 2a. [Renumbered 3315.0555, subpart 2, item A]

Subp. 3. [Renumbered 3315.0555, subpart 2, item B]

Subp. 4. [Renumbered 3315.0555, subpart 2, item C]

Subp. 5. [Renumbered 3315.0555, subpart 2, item D]

Subp. 6. [Renumbered 3315.0555, subpart 2, item E]

Subp. 7. [Renumbered 3315.0555, subpart 2, item F]

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**3315.1301** Subpart 1. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 2. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 3. [Repealed, L 2004 c 206 s 53; L 2005 c 112 art 2 s 42]

Subp. 4. [Repealed, L 2005 c 112 art 2 s 42]

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**3315.1315** Subpart 1. [Repealed, L 2005 c 112 art 2 s 42]

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Subp. 3. [Repealed, L 2005 c 112 art 2 s 42]

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Subp. 2. [Renumbered 3315.0550, subpart 3]

Subp. 3. [Renumbered 3315.0550, subpart 4]

Subp. 4. [Renumbered 3315.0550, subpart 5]

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**3315.2210** [Repealed, L 2005 c 112 art 2 s 42]

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**3315.3220** Subpart 1. [Repealed, L 2005 c 112 art 1 s 16]

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Subp. 4. [Renumbered 3315.0910, subpart 3]

Subp. 5. [Renumbered 3315.0910, subpart 4]

Subp. 6. [Renumbered 3315.0910, subpart 5]

Subp. 7. [Renumbered 3315.0910, subpart 6]

Subp. 8. [Renumbered 3315.0910, subpart 7]

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**3315.4300** Subpart 1. [Renumbered 3315.1020, subpart 2]

Subp. 2. [Renumbered 3315.1020, subpart 2, item A]

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